REMARKS

Claims 1-27 are pending. Claims 5 and 6 are each withdrawn from consideration as being directed to a nonelected invention.

Claim 1 has been amended to provide an initial meaning of the term "JNK."

Claims 16 and 17 have been amended to recite methods of treatment.

No new matter has been added.

Applicants reserve their right to prosecute the subject matter of any canceled claim, any amended claim, any withdrawn claim or any unclaimed subject matter in one or more related applications.

I. Claim Objections

Claims 1-4, 12, 14 and 15 are objected to as not providing an initial representation of the abbreviation "JNK." Without acquiescing in the rejection and solely to expedite prosecution, Applicants have amended claim 1 to provide an initial meaning of the term "JNK."

Accordingly, Applicants submit that the objection to claims 1-4, 12, 14 and 15 has been overcome and should be withdrawn.

II. The Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 16 and 17 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly lacking enablement.

In particular, while acknowledging that the specifiation is enabling for treating cardiovascular disease, renal disease and atherosclerosis, the Examiner has stated that it does not reasonably provide enablement for the prevention of cardiovascular disease, renal disease or atherosclerosis.

Without acquiescing in the rejection and solely to expedite prosecution of the present application, Applicants have amended claims 16 and 17 to recite methods of treatment.

Accordingly, Applicants submit that the rejection of claims 16 and 17 under 35 U.S.C. § 112, first paragraph, has been overcome and should be withdrawn.

III. The Rejection Under 35 U.S.C. § 101

Claim 27 is rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. In particular, the Examiner has stated that the directions for use recited in the claim are not within the statutory classes.

Preliminarily, Applicants note that claim 27 is not directed solely to directions for use, but is directed to a kit comprising the stent of claim 1 in combination with directions for use.

As held by the C.C.P.A. in *Application of Miller*, as cited by the Examiner, the fact that printed matter by itself is not patentable subject matter does not mean that a combination containing printed subject matter is not patentable. *Application of Miller*, 418 F.2d 1392, 1396 (C.C.P.A. 1969). In other words, the mere fact that a claimed invention contains printed matter does not mean that it is *per se* directed to non-statutory subject matter. *Id.* In fact, the C.C.P.A. held that printed matter in an article of manufacture claim can be given patentable weight. *Id.* Thus, Applicants respectfully submit that the subject matter of claim 1 is within the statutory classes of patentable subject matter.

Accordingly, Applicants submit that the rejection of claim 27 under 35 U.S.C. § 101 has been overcome and should be withdrawn.

IV. The Rejection Under 35 U.S.C. § 103(a)

Claims 1-4 and 7-27 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Application Publication No. 2002/0103229 ("Bhagwat") in view of U.S. Patent Application Publication No. 2002/0188037 ("Chudzik").

Applicants understand the Examiner's argument to be that the pending method claims are obvious over Bhagwat in view of Chudzik because Bhagwat describes the use of compounds of the pending methods claims for the treatment of certain conditions (*e.g.*, restenosis following angioplasty and organ transplantation), that compositions comprising the compounds can be implanted or provide sustained release, and that Chudzik discloses acrylate coated stents that provide controlled release of active agents. The Examiner has acknowledged that Bhagwat does not disclose stents.

Applicants respectfully submit that the broad disclosure of Bhagwat that compounds of the present method claims can be used in an "implantable composition" does not provide the requisite reason for one of ordinary skill in the art to use the compounds with a stent. In other words, Applicants respectfully submit that there is no reason why one of ordinary skill in the art would prepare a stent containing a compound of the pending method claims in view of a broad disclosure relating to their use in implantable compositions. Applicants

respectfully submit that a stent is a medical device with particular structural features that allow it to perform specific functions (*i.e.*, tubular devices normally inserted into veins or arteries in order to keep such blood vessels open). In the absence of a reason as to why one of ordinary skill in the art would choose to use a compound of the pending method claims with a stent, Applicants respectfully submit that a proper *prima facie* case of obviousness has not been established ([T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in *KSR International Co. v. Teleflex Inc.* 127 S.Ct. 1727 (2007)).

Accordingly, Applicants submit that the rejection of claims 1-4 and 7-27 under 35 U.S.C. § 103(a) has been overcome and should be withdrawn.

Conclusion

Applicants respectfully request that the above remarks be entered in the present application file. No fee is estimated to be due in connection with this Response other than that due in connection with the Petition for Extension of Time; however, in the event that any additional fee is due, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

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Date: November 26, 2007

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